

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA \*  
PLAINTIFF, \*  
VS. \*  
ABDUL NENDOZA-LEBRON \*  
DEFENDANT. \*  
\*\*\*\*\*

CRIMINAL NO. 99-255 (HL)

DEFENDANT'S MOTION REQUESTING A  
COURT ORDER TO MAKE BUREAU OF  
PRISONS (BOP) TO GIVE CREDIT OF  
THE DEFENDANT'S SERVICE OF  
SENTENCE AFTER SENTENCED

RECEIVED & FILED  
14 NOV -4 PM 1:27  
CLERK'S OFFICE  
U.S. DISTRICT COURT  
SAN JUAN, P.R.

COMES NOW, the DEFENDANT ABDUL NENDOZA-LEBRON, acting PRO SE, and respectfully request that this Honorable Court issue an order to the effects that Bureau OF Prisons (BOP) gives credit toward the Defendant's service OF the time he has spent in Federal Official detention after he was sentenced by this Honorable Court in connection with the OFFENSE on the instant case. In Support thereof, the Defendant avers as follows:

I. VENUE

Venue OF this Honorable Court to enter into the merits OF request is governed by the Title 28 OF United States Code Annotated (U.S.C.A.) § 1391(e) which

U.S. v. ABDUL NEUDOZA-LEBRON  
CRIMINAL CASE 99-255 (HL)

States inter-alia:

"A Civil action in which the defendant is an OFFICER or employee of the United States or any agency thereof acting in his official capacity... may... be brought in any judicial district in which (1) a defendant in the action resides, (2) a substantial part of the events or omissions giving rise to the claim occurred..."

## II. JURISDICTION

Jurisdiction to enforce a Final Judgment is found in Rule 54(c) of Federal Rules of Civil Procedure which states inter-alia:

"Except as to a party against whom a judgment is entered by default, every Final judgment shall grant the relief to which the party in whose favor it is rendered is entitled..."

## III. MEMORANDUM OF LAW

In the United States Code Annotated (U.S.C.A.) § 3585 is established that:

"(a) Commencement of Sentence - A sentence to a term of imprisonment commences on the date the defendant is received in custody - awaiting transportation to... the official detention facility at which the sentence commences -

U.S. v. ABDUL WOODS - (FBRO)  
CRIMINAL CASE 99-255 (HL)

(1) as a result of the offense for which the sentence was imposed...

#### IV. MEMORANDUM OF CASES RELATED

On U.S. v. Beck, C.A. 6 (Tenn) 1992, 954 F.2d 386 the court held that:

"For purposes of statute providing that defendant shall be given credit toward service of term of imprisonment for any time spent in official detention prior to date sentences, commences - official detention means incarceration -".

On Kay Fez v. Gasle, C.A. 7 (Wis.) 1993, 993 F.2d 1288 the court held that:

"Postconviction petitioner serving concurrent state and Federal sentences was entitled to credit against his Federal sentence for all his presentence incarceration, even though time he had already been credited against state sentence; since defendant's sentence were concurrent, crediting only against state sentence would not reduce his period of actual imprisonment".

U.S. V. ABDOUL MENDOZA - (LEBRON)  
CRIMINAL CASE 99-255 (HL)

## V. ARGUMENTS

Defendant was arrested by the F.B.I on Criminal case 99-255 (HL) and brought from State Prison to MDC. Guaynabo (Federal Prison) on August 24, 1999. Approximately Five (5) months before his arrest, defendant began to cooperate with both Federal and State Governments. On March 6, 2000, defendant pled guilty and on June 18, 2001 was sentenced by this Honorable Court to ninety six (96) months of imprisonment, and finally was resentenced on August 17, 2004 to a total of Forty Eight (48) months of imprisonment.

As part of the Judgment of June 18, 2001 and August 17, 2004 this Honorable Court ordered that "Time served in connection with this offense shall be credited". The is that the Bureau of Prisons (BOP) is computing the defendant's time of imprisonment beginning on December 4, 2001 this is twenty seven (27) months and ten (10) days after defendant's Federal arrest and arrival to MDC. Guaynabo and Five (5) months, sixteen (16) days after the Original sentence by this Honorable Court (see attachment).

## VI. RELIEF SOUGHT

It is clearly well established that this Honorable Court might issue an order to the effects that Bureau of Prisons (BOP) computes the defendant's time of imprisonment starting from the moment this Honorable Court sentenced him on June 18, 2001

U.S. v. ABDUL MENDOZA - (EBRON)  
CRIMINAL CASE 99-255 (HL)

IF after entering the merits on the instant case, Defendant is not requesting to obtain credit toward his presentence time spend under Federal custody even though there exists some precedents to those effects.

It is also well established from the record that this Honorable Court order, on the Final Judgment on June 18, 2001 and August 17, 2004, that Bureau of Prisons (BOP) shall give credit on the time already served (Defendant arrives to Federal Jurisdiction on August 24, 1999) in connection with this offense, but Bureau of Prison (BOP) do not comply with the disposition of the instant case to give credit toward that time.

WHEREFORE, the defendant prays this Honorable Court to consider all the information herein provided and issue an order to the effects that Bureau of Prisons (BOP) comply immediately with the judgment of June 18, 2001 and August 17, 2004, and give credit toward the service of the term of imprisonment served by the defendant since the exact moment. This Honorable Court sentenced him on June 18, 2001 and not in the way the BOP has done it From December 4, 2001, (this is Five (5) months and sixteen (16) days after sentenced).

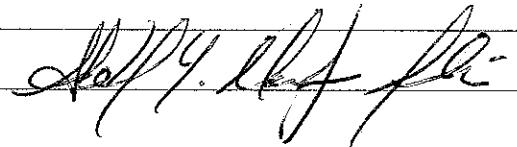


U.S. V. ABDUL NENDOZA-LEBRON  
CRIMINAL CASE 99-255 (HL)

I HEREBY CERTIFY that on this same date a true copy of the instant motion was sent to ALUSA SONIA TORRES at Torre Chardon Suite 1201, 350 Carlos Chardon Avenue, San Juan, P.R. 00918

RESPECTFULLY SUBMITTED

On this 24 day of October, 2004 in M.D.C. Guaynabo San Juan, P.R.



ABDUL Y. NENDOZA LEBRON  
Reg. No. 18160-069 Unit 4C  
Metropolitan Detention  
Center Guaynabo Bx 2147  
San Juan, P.R. 00922-2147